

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emmanuel Fashakin, Jr.	Team: Team # 7	CCRB Case #: 200802961	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 02/23/2008 4:00 PM	Location of Incident: East 87th Street and Glenwood Road; Flatlands Avenue and East 92nd Street;69th Precinct stationhouse	Precinct: 69	18 Mo. SOL 8/23/2009	EO SOL 8/23/2009	
Date/Time CV Reported Mon, 02/25/2008 11:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/28/2008 12:33 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Eric Delman	01832	922228	069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christoph Doll	00221	931639	069 PCT
2. POF Jenifer Mcdonald	08259	938984	069 PCT
3. POF Windza Francois	08911	937157	069 PCT
4. POM Kristofer Allua	00138	936122	069 PCT
5. POM Gerald Stlouis	19897	935781	069 PCT
6. SGT Sean Donohue	01921	926789	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Eric Delman	Abuse: Sgt. Eric Delman stopped § 87(2)(b) within the vicinity of East 87th Street and Glenwood Road.	
B.SGT Eric Delman	Abuse: Sgt. Eric Delman frisked § 87(2)(b)	
C.SGT Eric Delman	Discourtesy: Sgt. Eric Delman spoke obscenely and rudely to § 87(2)(b) within the vicinity of Flatlands Avenue and East 92nd Street.	
D.SGT Eric Delman	Abuse: Sgt. Eric Delman did not obtain medical treatment for § 87(2)(b) inside the 69th Precinct stationhouse.	
E.SGT Eric Delman	Abuse: Sgt. Eric Delman authorized the strip search of § 87(2)(b) inside the 69th Precinct stationhouse.	

Synopsis

At approximately 4pm on February 23, 2008, § 87(2)(b) was speaking to a neighborhood friend known as § 87(2)(b) at the corner of East 87th Street and Glenwood Road when officers arrived on the scene. § 87(2)(b) was stopped by Sgt. Eric Delman [Allegation A]. Sgt. Delman also frisked § 87(2)(b) [Allegation B]. Sgt. Delman's frisk yielded no contraband and he requested § 87(2)(b) identification in order to complete a stop and frisk report. § 87(2)(b) was then released without further incident. Approximately 40 minutes after this initial interaction with Sgt. Delman, § 87(2)(b) was walking within the vicinity of Flatlands Avenue and East 92nd Street when Sgt. Delman arrived on the scene, exited his vehicle and allegedly stated to § 87(2)(b) "You want to fuck with me?" [Allegation C]. Sgt. Delman stated to § 87(2)(b) that he had an open warrant and placed him under arrest. § 87(2)(b) was transported to the 69th Precinct stationhouse. While inside the stationhouse, § 87(2)(b) allegedly requested medical attention from Sgt. Delman, who did not fulfill this request [Allegation D] and was allegedly strip searched by two unidentified officers [Allegation E]. Hours after his arrest, § 87(2)(b) spoke to the desk officer and requested to go the hospital. § 87(2)(b) was transported to § 87(2)(b) by two unidentified officers. After receiving medical attention, § 87(2)(b) was transported back to the 69th Precinct and then transported to Brooklyn Central Booking.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) [a § 87(2)(b)-old black male, 6'2, 220 pounds, with black hair and brown eyes] provided an initial narrative of this complaint when he called the Internal Affairs Bureau [IAB] at approximately 11:50am on February 25, 2008 [encl. 3a-b] to file this complaint. § 87(2)(b) complaint was referred to the CCRB on February 28, 2008. § 87(2)(b) was interviewed at the CCRB on March 6, 2008 [encl. 5a-e]. § 87(2)(g)

At approximately 4pm on February 23, 2008, § 87(2)(b) was walking to a grocery store located on East 87th Street and Glenwood Road in Brooklyn when he saw a neighborhood friend, § 87(2)(b) driving by in his vehicle. § 87(2)(b) stopped his vehicle in front of the grocery store and exited the vehicle. § 87(2)(b) and § 87(2)(b) began talking. Another neighborhood friend, § 87(2)(b) was standing in front of the store but was not involved in the conversation between § 87(2)(b) and § 87(2)(b). As both individuals were talking, two marked RMPs suddenly arrived on the scene. An officer, later identified to § 87(2)(b) as "Sgt. Dollman," exited his vehicle and immediately approached § 87(2)(b). Sgt. Dollman [a white male, 5'11, 240 pounds with a portly build who's last name was clarified during the investigation to be "Delman"] immediately frisked § 87(2)(b) by patting him down. § 87(2)(b) asked Sgt. Delman what the problem was but received no response. In addition to Sgt. Delman, who was in uniform, there were approximately 5 other uniformed officers on the scene but § 87(2)(b) had no interaction with these officers and did not pay attention to them. Sgt. Delman asked § 87(2)(b) for his identification, stating that he needed to document his stop of § 87(2)(b). § 87(2)(b) provided his identification. Sgt. Delman took down information from the identification then returned it to § 87(2)(b). The officers then left the scene. After this encounter, § 87(2)(b) decided to leave and purchase Chinese food. § 87(2)(b) walked to the Chinese restaurant which § 87(2)(b) believed was located on Flatlands Avenue and 92nd Street [though he was unsure as to the specific corner it was on]. § 87(2)(b) accompanied § 87(2)(b) to the Chinese restaurant. § 87(2)(b) purchased Chinese food and sat down to eat it. After eating his food, § 87(2)(b) exited the restaurant alone and began walking. Approximately 40 minutes had elapsed from his encounter with Sgt. Delman.

As § 87(2)(b) left the Chinese restaurant and was walking away, Sgt. Delman suddenly arrived on the scene in his vehicle. Sgt. Delman exited his vehicle and stated to § 87(2)(b) "You want to fuck with

me?” Sgt. Delman grabbed § 87(2)(b) turned him around and placed him in handcuffs. § 87(2)(b) who at this point was half a block away from the Chinese restaurant, made no statements to Sgt. Delman and did not resist the arrest. Sgt. Delman stated to § 87(2)(b) that he had an open warrant but § 87(2)(b) made no statements in response. § 87(2)(b) stated that his only open warrant would have been for a violation of staying in a park too late and a summons he had received for belching loudly because he suffered from gastritis. § 87(2)(b) did not recall how many officers were on the scene during this second encounter with Sgt. Delman. He was placed inside a RMP and transported to the 69th Precinct.

Upon arrival at the 69th Precinct, § 87(2)(b) belongings [including \$322] were taken and vouched. While waiting at the front desk, § 87(2)(b) requested to go the hospital, stating that he was not a healthy man and needed his medication. § 87(2)(b) requested medical attention from Sgt. Delman in the presence of PO1 [a white male, 6’2, with a slim build and brown or blonde hair] and PO2 [a black male, 6’1, with a slim build and a bald head]. Sgt. Delman did not respond to this request. While at the desk, § 87(2)(b) was led to a back area of the precinct by PO1 and PO2. While in this back area, § 87(2)(b) was instructed to take off all his clothes and was “strip searched.” § 87(2)(b) stated that he believed Sgt. Delman had ordered the strip search. When asked by Investigator Fashakin how he knew Sgt. Delman had ordered the strip search, § 87(2)(b) stated that he knew. When asked whether he had heard Sgt. Delman verbally instruct the officers to strip search him, § 87(2)(b) appeared exasperated, paused and stated, “Oh man.” Investigator Fashakin stated that he needed to know if this was a verbal instruction § 87(2)(b) had heard. § 87(2)(b) then stated, “Yea...fuck that ‘nigga’...yea... Sergeant told them motherfuckers to do it.” In describing the strip search, § 87(2)(b) stated that PO1 and PO2 instructed him to take off all his clothes then instructed him to squat down in order “to see if anything was going to drop out.” § 87(2)(b) stated that he felt humiliated in being subjected to a strip search “in front of guys” – these guys being PO1 and PO2. After the strip search, § 87(2)(b) was allowed to put his clothes back on and placed inside a cell. While being placed inside the cell § 87(2)(b) asked either PO1 or PO2 for Sgt. Delman’s name. It was at this time that he was given the name “Dollman.”

§ 87(2)(b) waited in the cell for hours. While in the cell, § 87(2)(b) saw Sgt. Delman leave the precinct. § 87(2)(b) made no statements and remained in the cell until he requested to use the bathroom. An officer, identified through his name on his uniform as PO Doll, was sent by the desk officer [no description provided] to escort § 87(2)(b) to the bathroom. In escorting § 87(2)(b) to the bathroom, PO Doll had to place § 87(2)(b) in handcuffs. However, in doing this, PO Doll placed the handcuffs on § 87(2)(b) wrist bone which hurt § 87(2)(b). § 87(2)(b) screamed loudly and shouted to the desk officer. The desk officer then instructed two unidentified officers to escort § 87(2)(b) to the bathroom. Sometime after using the bathroom, § 87(2)(b) requested to go the hospital. § 87(2)(b) was transported to § 87(2)(b) by two unidentified officers. While at § 87(2)(b) § 87(2)(b) “pressure was checked and [he was] given medication for pain in [his] chest and a prescription.” It was while inside the hospital that § 87(2)(b) heard that the time was 5am. After receiving medical attention, § 87(2)(b) was transported back to the 69th Precinct and then transported to Brooklyn Central Booking where his arrest was dismissed by a judge.

Results of Investigation

Additional Civilian Statements

§ 87(2)(g)

Officer Identification

Sgt. Delman was identified through § 87(2)(b) narrative that an officer had given him the name “Dollman.” While no officers in the 69th Precinct were found to have the last name “Dollman,” A CTS search using all 69th Precinct officers with the last name “D” yielded Sgt. Eric Delman. In his interview at the CCRB, Sgt. Delman acknowledged his involvement in this incident and identified PO Windza Francois and PO Jenifer McDonald as being his partners during this incident. Additionally, Sgt. Delman identified

PO Gerald St. Louis and PO Kristofer Allua as the two observation post officers during this incident. In their statements at the CCRB, PO Francois and PO McDonald acknowledged the level of their involvement in this incident. Sgt. Sean Donohue was identified as the desk officer through the command log. In his interview at the CCRB, Sgt. Donohue acknowledged having been the desk officer.

Officer Statements

Arrest Report

According to the arrest report of § 87(2)(b) [encl. 6a-b], which was presented by Sgt. Delman at his interview at the CCRB, § 87(2)(b) was arrested for § 87(2)(b) at the southeast corner of Glenwood Road and East 87th Street at approximately 1615 hours on February 23, 2008. The arrest report noted that § 87(2)(b) arresting officer was PO Windza Francois.

Stop and Frisk Report

According to the Stop and Frisk Report prepared by Sgt. Delman [encl. 7a-b], at approximately 1615 hours on February 23, 2008, § 87(2)(b) was stopped under suspicion of criminal sale of marijuana at the intersection of Glenwood Road and East 87th Street in Brooklyn for the duration of 2 minutes after being observed for 30 minutes. As documented in the report, the circumstances leading to the stop were § 87(2)(b) fitting a description, his actions indicative of engaging in a drug transaction, and a SNEU operation which had occurred in the area. The additional factors leading to the stop were the area's "high incidence of reported offense" and § 87(2)(b) associating with "persons known for their criminal activity." The report noted that § 87(2)(b) was frisked because of his furtive movements and was searched after being observed in a hand to hand drug transaction.

Sgt. Eric Delman [a white male, 5'10, 215 pounds with black hair and brown eyes] was interviewed at the CCRB on March 28, 2008 [encl. 9a-b].

According to Sgt. Delman's memo book entries [encl. 8a-b], "1545 – OP Glenwood & 87; 1615 – 92C @ Glenwood & 87 – § 87(2)(b) Additional male stop for criminal sale of marijuana, UF250 prepared – § 87(2)(b) - SPRINT # 8662; 1715 - 1 under Flatland & 94 ROW [return of warrant] Def. § 87(2)(b)

On February 23, 2008, Sgt. Delman worked a 1450 x 2347 tour as one of the apprehension team officers with the 69th Precinct SNEU team. Sgt. Delman, who was in uniform for the duration of his tour, was working with PO [Jenifer] McDonald and PO [Windza] Francois. The officers were assigned to an unmarked vehicle but Sgt. Delman did not recall the make and model of this vehicle.

At approximately 3:45pm, PO [Gerald] St. Louis and PO [Kristofer] Allua, who were both assigned to the observation post on Glenwood Road and East 87th Street [a drug prone location], radioed an observation of a sale of marijuana. The officers stated that they had observed an individual, later identified as § 87(2)(b) hand marijuana to an individual on the corner. Sgt. Delman responded to the scene to arrest § 87(2)(b) but he walked southbound on East 88th Street and entered a house. The officers were unable to place him under arrest as a result of his entry into the house and the operation continued. At 4:15pm, Sgt. Delman received a call from the observation post that § 87(2)(b) was back on the corner of Glenwood Road and East 87th Street and was with an individual, later identified as § 87(2)(b) who was smoking marijuana in plain view. The apprehension team immediately responded to the scene. Officers placed § 87(2)(b) under arrest while Sgt. Delman addressed § 87(2)(b). Sgt. Delman stopped § 87(2)(b) based on the previous observation of his sale of marijuana, and then frisked and searched him. At the juncture of this incident, § 87(2)(b) was visibly upset and began stating that he was going to call the CCRB and Internal Affairs. The search yielded no results and Sgt. Delman requested § 87(2)(b) identification to fill out a stop and frisk report. After recording the information from § 87(2)(b) identification, Sgt. Delman instructed § 87(2)(b) that he could leave. The officers then left the scene.

While inside the vehicle, Sgt. Delman conducted a warrant check for § 87(2)(b). The search yielded that § 87(2)(b) had an open warrant though Sgt. Delman did not recall what the warrant was for. Sgt. Delman did recall that the warrant was not drug related. § 87(2)(b) had already left the scene at the time when

this warrant check produced an active warrant for his arrest. However, approximately an hour later at 5:15pm, Sgt. Delman observed § 87(2)(b) walking on Flatlands Avenue and East 92nd Street. Sgt. Delman immediately stopped the vehicle and approached § 87(2)(b). At this juncture of the incident PO McDonald and PO Francois were inside the vehicle and exited the vehicle as Sgt. Delman approached § 87(2)(b). Sgt. Delman stated that he was the only officer to interact with § 87(2)(b). Sgt. Delman stated to § 87(2)(b) that he had an open warrant but § 87(2)(b) appeared to not want to hear anything relating to his arrest and became rude and combative. Sgt. Delman stated that in being combative § 87(2)(b) was not physically resistant to the arrest but was yelling about being arrested. Sgt. Delman placed § 87(2)(b) in handcuffs and radioed for a vehicle, which responded to the scene and transported § 87(2)(b) to the 69th Precinct.

At the 69th Precinct, Sgt. Delman verified § 87(2)(b) arrest. At no point during his interaction with Sgt. Delman did § 87(2)(b) make a request for medical attention or state that he needed medication. Additionally, Sgt. Delman's level of involvement with § 87(2)(b) was to verify his arrest. Sgt. Delman did not instruct any officers to strip search § 87(2)(b) and stated that § 87(2)(b) would not have been subject to a strip search because he was arrested for an active warrant and not for drug possession. Sgt. Delman stated that he did not use profanity at any point during his interaction with § 87(2)(b) and denied stating to § 87(2)(b) "You want to fuck with me?" during their interaction at Flatlands Avenue and East 92nd Street.

PO Jenifer McDonald [a black female, 5'4, 135 pounds with black hair and brown eyes] was interviewed at the CCRB on April 4, 2008 [encl. 11a-b].

According to PO McDonald's memo book entries [encl. 10a-b], "1545 –SNEU op v/o Glenwood & 87st; 1615 – 92C Glen/ E87st."

On February 23, 2008, PO McDonald worked a 1500 x 2335 tour as one of the apprehension team officers with the 69th Precinct SNEU team. PO McDonald, who was in uniform for the duration of her tour, was working with Sgt. Eric Delman and PO [Windza] Francois. The officers were assigned to a marked vehicle.

At approximately 3:45pm, PO [Gerald] St. Louis and PO [Kristofer] Allua, who were both assigned to the observation post on Glenwood Road and East 87th Street, radioed an observation of two males smoking marijuana on the corner. One of the individuals was later identified as § 87(2)(b). The apprehension team of PO McDonald and the other two officers responded to the scene and approached both individuals. To PO McDonald's recollection, both individuals were placed under arrest at the scene. PO McDonald stated that § 87(2)(b) was arrested for two active warrants. PO McDonald stated Sgt. Delman had called on his phone and received confirmation of these warrants but PO McDonald did not recall the juncture of the incident during which the officers became aware of § 87(2)(b) active warrants. While the other individual [no recollection of name] was compliant with the arrest, § 87(2)(b) became angry and began yelling at Sgt. Delman. § 87(2)(b) did not physically resist the arrest but was verbally boisterous. § 87(2)(b) repeatedly used profanity in addressing Sgt. Delman, calling him a "Bird" and a "motherfucking pussy cracker." PO McDonald did not recall Sgt. Delman's response but stated that he was calm and professional during the interaction and at no point did he state to § 87(2)(b) "You want to fuck with me?" PO McDonald and PO Francois placed § 87(2)(b) in handcuffs and instructed him to calm down but § 87(2)(b) did not direct his attention at either officer and was yelling at Sgt. Delman.

After placing § 87(2)(b) in handcuffs, he was transported to the 69th Precinct stationhouse. PO McDonald did not recall who transported § 87(2)(b) to the 69th Precinct but stated that all three officers were in the precinct to process the arrest of § 87(2)(b) and the other individual. According to PO McDonald, the officers transported § 87(2)(b) to the 69th Precinct at approximately 4:20pm. Both individuals were brought before the desk but PO McDonald did not recall the desk officer during this time. In reviewing the 69th Precinct's tour 2 and tour 3 roll call on February 23, 2008 PO McDonald reiterated that she did not recall who the desk officer was.

To PO McDonald's recollection, § 87(2)(b) was searched at the desk by Sgt. Delman. PO McDonald had no recollection of § 87(2)(b) being led away to a back area by two officers and did not hear Sgt. Delman

authorize any officers to strip search § 87(2)(b). Additionally, PO McDonald did not hear of § 87(2)(b) being strip searched. At no point during the officers' interaction with § 87(2)(b) did he complain of any injuries, request medical treatment, or state that he needed his medication. To PO McDonald's recollection, the officers were in the precinct for 15 minutes and resumed their duties conducting another operation.

PO Christopher Doll [a white male, 5'10, 190 pounds with black hair and brown eyes] was interviewed at the CCRB on April 11, 2008 [encl. 13a-b].

PO Doll did not have any memo book entries in regards to this incident [encl. 12a-b].

On February 23, 2008, PO Doll worked a 1500 x 2335 tour inside the 69th Precinct stationhouse assigned to the 124 Room. PO Doll's duties inside this room were the intake of walk-in complaints and entering complaint reports into the precinct's database. PO Doll was in uniform for the duration of his tour.

PO Doll did not recall interacting with § 87(2)(b). When provided with a description of § 87(2)(b) and the alleged narrative that PO Doll had attempted to lead § 87(2)(b) to a bathroom until § 87(2)(b) had screamed and two officers were consequently instructed to lead § 87(2)(b) to the bathroom, PO Doll stated he had no recollection of this interaction though he had escorted prisoners to the past in the absence of available officers to do so. PO Doll did not recall the arrest processing inside the 69th Precinct of any individuals arrested by Sgt. Delman, PO Francois or PO McDonald. PO Doll stated that the 124 Room is approximately 100 feet from the desk. PO Doll stated that he did not recall who the desk officer was during his tour. In reviewing the tour 2 and tour 3 roll on this date, PO Doll stated that he did not recall who the desk officer was during this period. In reviewing the command log, PO Doll stated that he did not recognize the handwriting and was unable to identify the desk officer during this period. PO Doll had no knowledge of the occurrence of a strip search inside the 69th Precinct on this date.

PO Windza Francois [a black female, 5'7, 120 pounds with black hair and brown eyes] was interviewed at the CCRB on April 16, 2008 [encl. 15a-b].

According to PO Francois' memo book entries [encl. 14a-b], "1545 – SNEU op u/o Glenwood Road & E. 87ST; 1615 – 92C @ Glenwood Rd & E87 St."

On February 23, 2008, PO Francois worked a 1500 x 2335 tour as one of the apprehension team officers with the 69th Precinct SNEU team. PO Francois, who was in uniform for the duration of his tour, was working with Sgt. Eric Delman and PO [Jenifer] McDonald. The officers were assigned to an RMP.

At approximately 3:45pm, the apprehension team received a call from their observation post that two individuals had been observed selling and smoking marijuana. PO Francois and the other two officers from the apprehension team responded to the scene at Glenwood Road and East 87th Street and observed two individuals on the scene. One of the individuals, a black male later identified as § 87(2)(b) and another individual believed to be a Hispanic male, were standing on the corner. The Hispanic male was smoking a marijuana cigarette and tried to throw it away upon seeing the officers on the scene. In addition to PO Francois and her two partners, there were also two additional officers but she did not recall who these officers were and noted that they were not the officers from the observation post. PO Francois and PO McDonald dealt with the Hispanic male and placed him in handcuffs while Sgt. Delman dealt with § 87(2)(b). PO Francois recalled that § 87(2)(b) was verbally abusive to Sgt. Delman while being placed in handcuffs and cursed at him. PO Francois recalled that § 87(2)(b) called Sgt. Delman a "motherfucking pussy cracker." PO Francois did not recall Sgt. Delman's specific response to these statements but recalled that he was not discourteous to § 87(2)(b) and did not state, "You want to fuck with me?" To PO Francois' recollection, Sgt. Delman placed § 87(2)(b) in handcuffs and a vehicle was called to the scene to transport both individuals to the 69th Precinct stationhouse. PO Francois had no knowledge of § 87(2)(b) requesting medical attention or mentioning the use of medication at any point during the interaction.

PO Francois and her partners went to the 69th Precinct. PO Francois did not recall seeing § 87(2)(b) inside the precinct. PO Francois stated that she and her partners responded to the 69th Precinct so the arresting officers from her team could process the arrest of § 87(2)(b) and the other Hispanic male. After the processing of these arrests, PO Francois and her partners left the precinct and continued their SNEU operation. PO Francois had no knowledge of § 87(2)(b) being searched at the precinct and did not recall the desk officer on duty when she and her partners responded to the 69th Precinct stationhouse.

Sgt. Sean Donohue [a white male, 5'8, 180 pounds with a bald head and brown eyes] was interviewed at the CCRB on April 22, 2008 [encl. 17a-b].

Sgt. Donohue did not have any memo book entries in regards to this incident [encl. 16a-b].

On February 23, 2008, Sgt. Donohue worked a 1500 x 2347 tour inside the 69th Precinct stationhouse as the desk sergeant. Sgt. Donohue was in uniform for the duration of his tour.

Sgt. Donohue did not recall interacting with § 87(2)(b). When provided with a description of § 87(2)(b) and shown the command log, Sgt. Donohue reiterated that he did not recall having interacted with § 87(2)(b). In reviewing the command log, Sgt. Donohue stated that though he was at the desk, the command log entry in regards to § 87(2)(b) arrest was not made by him but by Sgt. Delman. Sgt. Donohue elaborated that a supervisor verifying an arrest can supervise the pedigree of the prisoner being entered into the command log. As the supervisor of PO Windza Francois, § 87(2)(b) arrest officer, Sgt. Delman would have been in a position to verify the arrest. Sgt. Donohue stated that he made all of the other entries on the page of § 87(2)(b) entry on the command log. Sgt. Donohue did not make the entries that noted a prisoner's transportation to Brooklyn Central Booking. In further review of the command log, Sgt. Donohue stated that § 87(2)(b) was arrested for "ROW" [return of a warrant]. Sgt. Donohue stated that given the circumstance of the arrest, after § 87(2)(b) pedigree had been entered into the command log, he would have been searched at the desk and placed inside a cell. Sgt. Donohue stated that this search, a procedural search would have entailed § 87(2)(b) pockets being searched and any objects including shoe laces, which could harm him, being removed from his person. According to Sgt. Donohue, § 87(2)(b) would not have been subjected to being taken to the back of the precinct and being instructed to take off his clothes. Sgt. Donohue stated that he did not authorize a strip search of § 87(2)(b) and in the event that Sgt. Delman had made a determination to have § 87(2)(b) strip searched, this determination would have been made after Sgt. Delman had conferred with Sgt. Donohue, who was the desk officer. Sgt. Donohue had no recollection of speaking to Sgt. Delman about a strip search being conducted for an individual who was arrested on the return of a warrant. Sgt. Donohue stated that he does not frequently authorize strip searches and such authorization is usually in conjunction with narcotics arrests.

Officers Not Interviewed

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

NYPD Documents

SPRINT

According to the SPRINT report [encl. 18], at 1615 hours, vehicle 69ST2 arrived on the scene at East 87th Street and Glenwood Road and prepared a report at 1616 hours.

Command Log

According to the 69th Precinct command log on February 23, 2008 [encl. 19a-h], PO Windza Francois arrested § 87(2)(b) at approximately 1715 hours within the vicinity of Flatlands Avenue and East 94th Street for an active warrant. § 87(2)(b) mental and physical condition was listed as being good. It was also noted that \$318.00 was vouchered and the sum of \$14.45 was returned to § 87(2)(b). It was further noted that at approximately 0445 hours, § 87(2)(b) was transported to § 87(2)(b) via EMS. At 0650 hours, § 87(2)(b) was returned to the precinct and at 0915 hours, he was transported to Brooklyn Central Booking.

Criminal Conviction History of § 87(2)(b)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Disposition of February 23, 2007 Arrest

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

This is the third CCRB complaint involving § 87(2)(b) [encl. 2]. § 87(2)(b)

Officer CCRB History

No CCRB allegations have been substantiated against Sgt. Delman [encl. 1].

Conclusions and Recommendations

Undisputed Facts

It is undisputed that Sgt. Eric Delman stopped and frisked § 87(2)(b) within the vicinity of East 87th Street and Glenwood Road under the suspicion that § 87(2)(b) had been involved in the sale of marijuana. It is further undisputed that during this interaction, Sgt. Delman's search of § 87(2)(b) yielded no contraband and § 87(2)(b) was released. It is further undisputed that Sgt. Delman filled out a stop and frisk report in regards to this initial interaction. It is undisputed that Sgt. Delman later stopped and arrested § 87(2)(b) within the vicinity of Flatlands Avenue and East 92nd Street for an active warrant. It is further undisputed that § 87(2)(b) was transported to the 69th Precinct, where his arrest was processed.

Disputed Facts

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Assessment of Evidence

At approximately 4pm on February 23, 2008, § 87(2)(b) was speaking to a neighborhood friend known as "§ 87(2)" at the corner of East 87th Street and Glenwood Road when officers arrived on the scene and § 87(2)(b) was approached by Sgt. Delman who frisked him. Sgt. Delman's frisk yielded no contraband and he requested § 87(2)(b) identification in order to complete a stop and frisk report. § 87(2)(b) was then released without further incident. According to Sgt. Delman, he responded to the scene, frisked and searched § 87(2)(b) in conjunction with communication received from the SNEU team observation post that § 87(2)(b) was involved in the criminal sale of marijuana and was with an individual who was smoking marijuana in plain view. In his interview at the CCRB, Sgt. Delman provided the arrest report for § 87(2)(b) who was arrested by PO Windza Francois at the corner of East 87th Street and Glenwood Road at the same time for § 87(2)(b). While "§ 87(2)" was not identified and § 87(2)(b) made no statements in regards to "§ 87(2)" being arrested, it is unclear whether § 87(2)(b) is "§ 87(2)". Nevertheless, there is sufficient reason to believe that § 87(2)(b) was within proximity to § 87(2)(b) and interacted with him as observed by the SNEU team's observation post. § 87(2)(g)
[REDACTED]
[REDACTED]

Approximately 40 minutes after this initial interaction with Sgt. Delman, § 87(2)(b) was walking within the vicinity of Flatlands Avenue and East 92nd Street when Sgt. Delman arrived on the scene, exited his vehicle and allegedly stated to § 87(2)(b) "You want to fuck with me?" Sgt. Delman denied making such a statement in this interaction with § 87(2)(b). PO Francois and PO McDonald, determined during the course of the investigation as the only other officers present on the scene during this second interaction, also refuted § 87(2)(b) discourtesy allegation. According to all three officers, it was § 87(2)(b) who was rude and combative during the interaction. § 87(2)(g)
[REDACTED]

While on the scene at Flatlands Avenue and East 92nd Street, Sgt. Delman stated to § 87(2)(b) that he had an open warrant and placed him under arrest. § 87(2)(b) was transported to the 69th Precinct stationhouse.

According to § 87(2)(b) while inside the stationhouse, he requested medical attention from Sgt. Delman in the presence of PO1 [a white male, 6'2, with a slim build and brown or blonde hair] and PO2 [a black male, 6'1, with a slim build and a bald head]. Sgt. Delman did not respond to this request. According to § 87(2)(b) his request for medical attention was ultimately fulfilled hours later when he asked a desk officer for medical attention. Sgt. Delman refuted § 87(2)(b) assertion of having requested medical attention. PO McDonald corroborated Sgt. Delman's statement by stating that at no point during the officers' interaction with § 87(2)(b) did he complain of any injuries or request medical treatment and PO Francois

stated that she had no knowledge of § 87(2)(b) requesting medical attention. § 87(2)(g)

According to § 87(2)(b) while at the desk he was led to a back area of the precinct by PO1 and PO2 where he was instructed to take off all his clothes and “strip searched.” § 87(2)(b) stated that he believed Sgt. Delman had ordered the strip search and elaborated on this assertion of how he knew by stating that he knew. When questioned as to whether he heard Sgt. Delman verbally authorize PO1 and PO2 to strip search him, § 87(2)(b) appeared exasperated, paused and stated, “Oh man.” § 87(2)(b) then stated, “Yea...fuck that “nigga”...yea... Sergeant told them motherfuckers to do it.” Sgt. Delman denied the occurrence of a strip search while PO Francois and PO McDonald both denied having any knowledge of the occurrence of a strip search. According to Sgt. Delman, § 87(2)(b) would not have been subject to a strip search because he was arrested for an active warrant and not for drug possession. According to Sgt. Donohue, who was the desk officer during this period, § 87(2)(b) would not have been subjected to being taken to the back of the precinct and being instructed to take off his clothes. Sgt. Donohue stated that he did not authorize a strip search of § 87(2)(b) and in the event that Sgt. Delman had made a determination to have § 87(2)(b) strip searched, this determination would have been made after Sgt. Delman had conferred with Sgt. Donohue, who was the desk officer. Sgt. Donohue had no recollection of speaking to Sgt. Delman about a strip search being conducted for an individual who was arrested on the return of a warrant. Sgt. Donohue stated that he does not frequently authorize strip searches and such authorization is usually in conjunction with narcotics arrests. § 87(2)(g)

Allegations not Pleaded

§ 87(2)(b) alleged that during his initial encounter with Sgt. Delman he was frisked. § 87(2)(b) did not allege a search. § 87(2)(g)

Allegation A: Sgt. Eric Delman stopped § 87(2)(b) within the vicinity of East 87th Street and Glenwood Road.

Allegation B: Sgt. Eric Delman frisked § 87(2)(b) within the vicinity of East 87th Street and Glenwood Road.

§ 87(2)(g)

According to Sgt. Delman, he responded to the scene, frisked and searched § 87(2)(b) in conjunction with communication received from the SNEU team observation post that § 87(2)(b) was involved in the criminal sale of marijuana and was with an individual who was smoking marijuana in plain view.

According to *Kamins' Search and Seizure*, "Under the 'fellow officer' rule, an arresting officer acts with probable cause when: 1) he acts on the basis of information supplied by another officer which itself or together with information already known to the arresting officer establishes probable cause, or 2) he arrests a defendant at the direction of another officer who has probable cause" [encl. A1]. *Kamins' Search and Seizure* further states that a suspect's presence at the scene of drug activity in combination with other factors may give rise to probable cause although the police did not observe the suspect engage in specific illegal activity [encl. A2]. § 87(2)(g)

Allegation C: Sgt. Eric Delman spoke obscenely and rudely to § 87(2)(b) within the vicinity of Flatlands Avenue and East 92nd Street.

§ 87(2)(b) alleged that in his encounter with Sgt. Delman within the vicinity of Flatlands Avenue and East 92nd Street, Sgt. Delman stated to him, "You want to fuck with me?" Sgt. Delman denied making this statement and PO Francois and PO McDonald also refuted this allegation. § 87(2)(g)

Allegation D: Sgt. Eric Delman did not obtain medical treatment for § 87(2)(b) inside the 69th Precinct stationhouse.

According to § 87(2)(b) while inside the stationhouse, he requested medical attention from Sgt. Delman. Sgt. Delman refuted § 87(2)(b) assertion of having requested medical attention. Neither PO McDonald nor PO Francois corroborated § 87(2)(b) allegation in their statements. § 87(2)(g)

Allegation E: Sgt. Eric Delman authorized the strip search of § 87(2)(b) inside the 69th Precinct stationhouse.

§ 87(2)(g)

Investigator

Emmanuel Fashakin Jr.

Date:

Supervisor:

Stephen Poellot

Date:

Reviewed by:

Jessica Long

Date:

Reviewed by:

Date: